

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In re

IME PROPERTIES, LTD.,

Debtor.

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§

Case No. 13-31038-HCM-11

**COVER SHEET FOR APPLICATION FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

1. Applicant: E.P. BUD KIRK
2. Application No.: 1
3. Client: IME PROPERTIES, LTD.
4. Time Period Covered: June 25, 2013 to August 16, 2013
5. Amount Requested: \$12,070.47
 - a. Fees: \$11,635.00
 - b. Expenses: \$ 435.47

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Case No. 13-31038-HCM-11

FEE APPLICATION SUMMARY
FOR FIRST INTERIM FEE APPLICATION FOR PAYMENT OF ATTORNEY'S
FEES AND EXPENSES IN A CHAPTER 11 CASE

NOTICE

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR
INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21) DAYS
FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY
BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE
HELD.**

I. CLIENT IME PROPERTIES, LTD.

II. REQUESTING APPLICANT E.P. BUD KIRK, attorney for IME PROPERTIES, LTD.

III. TOTAL AMOUNT REQUESTED

a. Fees: \$11,635.00

b. Expenses: \$ 435.47

c. Pre-petition retainer, if any: The applicant has previously received fees and expenses totaling \$10,890.00. A retainer of \$4,787.00 was paid to E.P. BUD KIRK prior to the filing of these proceedings. Prior to filing, all of that retainer was earned, for pre-bankruptcy services actually rendered. Within the year prior to filing the Debtor paid E.P. BUD KIRK an additional \$6,103.00, all of it within 30 days of the billing for the services rendered.

d. Time period covered: June 25, 2013 to August 16, 2013

IV. BREAKOUT OF CURRENT APPLICATION

NAME/CAPACITY	TOTAL HOURS	RATE	TOTAL FEE
E.P. BUD KIRK, Attorney	46.00	\$250.00	\$11,500.00
KATHRYN McMILLAN, Paralegal	.10	\$ 90.00	\$ 9.00
JANELLE GONZALES, Paralegal	1.20	\$ 90.00	\$ 108.00
MAURA CASAS, Paralegal	.20	\$ 90.00	\$ 18.00
Total			\$11,635.00

MINIMUM FEE INCREMENTS One-tenth of an hour.

EXPENSES See attached bill.

AMOUNT ALLOCATED FOR PREPARATION OF THIS FEE APPLICATION

n/a

V. PRIOR APPLICATIONS

DATE OF HEARING	PERIOD COVERED	AMOUNT REQUESTED	AMOUNT AUTHORIZED
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n/a

VI. OTHER CO-EQUAL OR ADMINISTRATIVE CLAIMANTS IN THIS CASE
NAME PARTY REPRESENTED

n/a

Explain whether allowance of your Application will or will not result in this estate not being able to pay all co-equal or superior administrative claims in this case.

VII. RESULT OBTAINED Total scheduled debts in this case are \$2,138,659.94 and total scheduled assets are \$3,844,100.00. Time spent, covered by this Application, included amending the Debtor's schedules (5%); acquainting the Debtor with the duties of a Debtor-in-Possession and with United States Trustee's Guidelines (3%), preparing for and participating in the Initial Debtor Interview (5%), and 341 meeting (9%); obtaining an order to limit notices (4%); obtaining interim permission to use cash collateral (18%); employing a broker to list several of the Debtor's real properties for sale (5%); obtaining orders to keep utilities in service (5%); seeking a modification of life insurance collateral for the main loan in the case (7%); negotiating and litigating with the first lienholder as to final adequate protection terms for use of cash collateral (29%); gathering background for a Disclosure Statement (5%); and miscellaneous matters (5%).

For the time period covered by this Application, briefly identify the various matters for which services were rendered. For each identified matter, summarize the work performed and estimate the amount of fees allocated to such work during the time period in question. This estimate need not be exactly accurate, however the total of estimated fees must equal the amount of fees sought in this Application.

VIII. HOURLY RATES

If this Application in excess of the rates disclosed hereafter, explain for each effected employee the following:

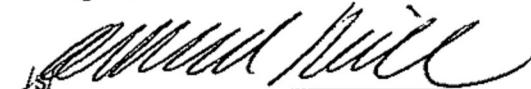
- a. number of years of experience;
- b. if Debtor's counsel:
 - (1) number of confirmed Chapter 11 Plans obtained if less than 10;
 - (2) special factors justifying higher rate in this case;
- c. if creditor's counsel:
 - (1) number of adversary proceedings litigated to judgment if under 10;
 - (2) number of claims involving more than \$500,000.00 in amount; and
 - (3) special factors justifying the fee in this case.

This Court believes all fees should be reasonable and necessary to justify their approval for payment out of the funds of the estate prior to payment of allowed unsecured creditors. The rates currently found in this District which are reasonable, if all other facts substantiate them as reasonable and necessary, for experienced practitioners in relatively significant Chapter 11 cases in this District are:

attorneys - \$250.00 per hour, legal assistants - \$90.00 per hour, law clerks \$40.00 per hour.

THESE FEES ARE GUIDELINES ONLY AND DO NOT PRECLUDE EVIDENCE JUSTIFYING HIGHER OR LOWER RATES.

Respectfully submitted this 20th day of August, 2013.



E.P. BUD KIRK
Texas State Bar No. 11508650
Terrace Gardens
600 Sunland Park Dr.
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El Paso, TX 79912
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Attorney for the Debtor

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
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In re

IME PROPERTIES, LTD.,

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Case No. 13-31038-HCM-11

**FIRST INTERIM FEE APPLICATION FOR PAYMENT OF ATTORNEY'S
FEES AND EXPENSES IN A CHAPTER 11 CASE**

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

Now comes E.P. BUD KIRK, Attorney at Law of El Paso, Texas, and files this, his First Interim Application for the payment of attorney's fees and expenses of administering this estate, pursuant to Section 507(a)(1) of the Bankruptcy Code, and would respectfully show the Court as follows:

I.

The time and effort expended by this Attorney in this case has been for the benefit of this estate. Petition date herein was June 25, 2013. Representation of the Debtor by this Attorney has been continuous since petition date.

II.

In compliance with the holding of the United States Court of Appeals for the Fifth Circuit, in In re First Colonial Corp. of America, 544 F.2d 1291 (1977), this Attorney states that he has made the following careful evaluation of the value of the services rendered by E.P. BUD KIRK.

1. Time and Labor Required for the Debtors. The attorney's time spent, assisted by staff, on this Chapter 11 matter has been for the benefit of the Debtor and the estate. A detailed description of the time spent and services performed is hereto attached.

Fees:

E.P. Bud Kirk, 46.00 hours at \$250.00 per hour	\$11,500.00
Kathryn McMillan, .10 hours at \$90.00 per hour	\$ 9.00
Janelle Gonzales, 1.20 hours at \$90.00 per hour	\$ 108.00
Maura Casas, .20 hours at \$90.00 per hour	\$ 18.00
Total Fees	\$11,635.00

2. Novelty and Difficulty of the Questions. This case has presented a number of complex issues arising under bankruptcy law.
3. Skill Requisite. To perform these legal services properly, special expertise in Bankruptcy law and business law was required.
4. Preclusion of Other Employment. Due to acceptance of this case, E.P. Bud Kirk was taken away from other legal matters on which he would have been paid at least as much as his proposed hourly payment in these proceedings.
5. Customary Fee. The customary fee charged by E.P. Bud Kirk for legal services in Chapter 11 Proceedings for a Debtor engaged in business of this extensive nature is \$250.00 per hour.
6. Fee Fixed or Contingent. The fee for these services is an hourly fee.
7. Time Limitations Imposed by the Client or Other Circumstances. Normal time constraints for bankruptcy work obtained in these proceedings.

8. Amount Involved and Results Obtained. Total debt in this case is approximately \$2,138,659.94 and total assets are \$3,844,100.00. Time spent, covered by this Application, included amending the Debtor's schedules; acquainting the Debtor with the duties of a Debtor-in-Possession and with United States Trustee's Guidelines, preparing for and participating in the Initial Debtor Interview and 341 meeting; obtaining an order to limit notices; obtaining interim permission to use cash collateral; employing a broker to list several of the Debtor's real properties for sale; obtaining orders to keep utilities in service; seeking a modification of life insurance collateral for the main loan in the case; negotiating and litigating with the first lienholder as to final adequate protection terms for use of cash collateral; gathering background for a Disclosure Statement; and miscellaneous matters.

9. Experience, Reputation, and Ability of the Attorney. E.P. Bud Kirk is an experienced bankruptcy lawyer, board certified in Consumer Bankruptcy and Business Bankruptcy by the Texas Board of Legal Specialization. Kathryn McMillan is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has 21 years' experience as a paralegal working in bankruptcy. Janelle Gonzales is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has 10 years' experience as a paralegal working in bankruptcy and holds a certificate from the Center for Legal Studies in Golden, Colorado, in the Paralegal Program and in bankruptcy procedure. Maura Casas is a graduate of University of Texas at El Paso's Paralegal Certificate Program and has 5 years' experience as a paralegal working in bankruptcy and holds a certificate from the Center for Legal Studies in Golden, Colorado, in the Paralegal Program and in bankruptcy procedure.
10. Desirability of the Case. This case was a desirable case due to the Debtor's ability to pay an adequate retainer, and due to the competence of the Debtor's management.
11. Nature and Length of the Professional Relationship with the Client. We have represented the client for approximately five months. The filing of the Petition was on June 25, 2013.
12. Award in Similar Cases. Upon information and belief, similar supplemental awards on an hourly basis have been made in similar cases by this Court, when there was a

showing that counsel's efforts had benefitted both the Debtor and Creditors of the estate.

III.

The fees and expenses which were for the benefit of this estate are as follows:

Attorney's fees as shown above	\$11,500.00
Paralegal's fees as shown above	\$ 135.00
Expenses	<u>\$ 435.47</u>
Total	\$12,070.47

IV.

The applicant has previously received fees and expenses totaling \$10,890.00. A retainer of \$4,787.00 was paid to E.P. BUD KIRK prior to the filing of these proceedings. Prior to filing, all of that retainer was earned, for pre-bankruptcy services actually rendered. Within the year prior to filing the Debtor paid E.P. BUD KIRK an additional \$6,103.00, all of it within 30 days of the billing for the services rendered. Since petition date the Debtor's principal ROGELIO CONTRERAS has added another \$7,125.00 to the retainer from his own personal funds, and \$4,175.00 from the Debtor's rents. The source from which the instant fees and expenses are to be paid, is the balance of that retainer and the future earnings of the Debtor.

V.

Local Bankruptcy Rule 2016 requires attachment of the Fee Application Summary, and Notice of Application hereto appended. The Compensation Support, Expenses Support, and Background Exhibits required by the Local Rule are appended hereto or else set forth in the foregoing Application.

WHEREFORE, PREMISES CONSIDERED, this attorney prays that he be allowed a sum of \$12,070.47 in fees and expenses as reasonable and necessary expenses for the administration of this estate.

Respectfully submitted this 20th day of August, 2013.



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(915) 581-3452 facsimile
budkirk@aol.com

Attorney for the Debtor

CERTIFICATE OF SERVICE

I do hereby certify that on the 20th day of August, 2013, I did cause a copy of the foregoing First Interim Fee Application for Payment of Attorney's Fees and Expenses in a Chapter 11 Case to be mailed by postage pre-paid U.S. Mail to the U.S. Trustee, P.O. Box 1539, San Antonio, Texas 78295-1539; to IME Properties, Ltd., 1140 Morgan Marie, El Paso, TX 79936; to Clyde A. Pine, Jr., Mounce, Green, Myers, Safi, Paxson & Galatzan, P.O. Box 1977, El Paso, TX 79950; to Linebarger Goggan Blair & Sampson, LLP, Attn: David Aelvoet, 711 Navarro, Ste. 300, San Antonio, TX 78205; and to ZIA Trust, Inc., c/o Cheryl S. Davis, 1522 Montana Ave., Suite 103, El Paso, TX 79902.



/s/ 
E.P. BUD KIRK

E.P. BUD KIRK
Attorney at Law

Terrace Gardens, Bldg. Four, Ste. 400
600 Sunland Park Dr.
El Paso, Texas 79912

Telephone (915) 584-3773
Fax: (915) 581-3452
Budkirk@aol.com

August 16, 2013

IME Properties, Ltd.
c/o Rogelio Contreras
7306 N. Loop
El Paso, TX 79915

In Re: 4204 Financial Planning

Professional services June 25, 2013 to August 16, 2013

			<u>Hours</u>	<u>Amount</u>
6/25/2013	BK	Proofread First Day Motions (.8); call Nickey regarding cash collateral use (.3); calls to EPWU regarding water use (.3); begin work on Motion to Reduce life insurance collateral (1.5); call Rogelio regarding same (.2); send notices (.2); finish insurance motion (1.4); review casualty policies (.2); call Nickey to verify GECU has notice of hearing (.2).	5.10	1,275.00
6/26/2013	BK	Calls to Clyde Pine regarding cash collateral hearing (.5); go to Court for cash collateral hearing (2.5).	3.00	750.00
6/27/2013	BK	Work on cash collateral Order (1.4); and notice of Utilities Order (.2).	1.60	400.00
6/28/2013	BK	Finish cash collateral order and certificate of notice (1.5); read listing contract correspondence (.2); write to client regarding	2.10	525.00

IME Properties, Ltd.

Page 2

			<u>Hours</u>	<u>Amount</u>
		same (.2); emails from C. Pine regarding form of cash collateral order (.2).		
7/1/2013	BK	Call from Rogelio regarding DIP account is now opened at Chase (.2); revise Motion to decrease insurance coverage (.5); call Mr. Pine regarding cash collateral (.2).	0.90	225.00
7/2/2013	BK	Revise motion to decrease insurance coverage (.3); call with U.S. Trustee (.2).	0.50	125.00
7/3/2013	BK	Begin drafting Application to Employ Broker, read his listing agreement (.5); read Clyde Pine's markups on cash collateral order (.6); call him regarding same (.2); call Rogelio regarding UST packet (.1); revise Application to Employ Broker (.5); and write to Broker (.4); negotiate with Pine regarding cash collateral order (.3); draft Motion to Limit Notices and Order for same (.9); meet with Rogelio and Itzel to amend Schedule B and complete IDI package and go over duties (1.8); proofread Motion to Limit Notices (.3); finish Exhibit A for UST (.4).	6.00	1,500.00
7/9/2013	BK	Participate in IDI (1.0); finish Motion to Employ broker (.2); update file (.3).	1.50	375.00
7/12/2013	BK	Read GECU's response to insurance Motion (.4); write to C. Pine regarding mail non-deliverable to Oasis Tire (.2).	0.60	150.00
7/15/2013	BK	Revise letter to Pine (.2); and notice of cash collateral final hearing (.7).	0.90	225.00
7/16/2013	BK	Complete letter to clerk regarding Interim Order (.1); read entered Order (.1); revise Notice to Creditors (.2); read IRS inquiry and write to client regarding same (.7).	1.10	275.00

IME Properties, Ltd.

Page 3

			<u>Hours</u>	<u>Amount</u>
7/17/2013	BK	Read Clyde Pines' request for expenses verification (.4); draft reply letter (.9); draft letter to client for approval of reply (.6); revise same (.5).	2.40	600.00
7/18/2013	BK	Read and reply to Rogelio's letter as to salary drawn in 2012 (.5); office visit from R. Contreras regarding budget, US Trustee fees, history of the Debtor (.4).	0.90	225.00
7/15/2013	KM	Draft Notice of Final Hearing on Motion to Use Cash Collateral.	0.10	9.00
6/25/2013	JMG	Draft Notice of Hearing on Motion to Use Cash Collateral and Notice of Hearing on Motion to Continue Utility Services.	0.40	36.00
6/28/2013	JMG	Draft certificate of services on Order regarding Utility Services.	0.10	9.00
7/1/2013	JMG	Draft Certificate of Unavailability.	0.10	9.00
7/3/2013	JMG	Draft Amended Schedule B.	0.20	18.00
7/29/2013	BK	Write to UST with ACORD Certificate (.2); call from Tom Foster regarding selling activity (.2).	0.40	100.00
7/30/2013	BK	Read Order, shorten service list.	0.30	75.00
7/31/2013	BK	Read Rogelio's letter (.1); write to Wells Fargo regarding debt has been schedule in IME case and will be paid through IME Plan (.6).	0.70	175.00
8/5/2013	BK	Reply to IRS regarding no employees in 2012 (.4); call Clarissa Waxton regarding any open IDI items left (.1).	0.50	125.00
8/9/2013	BK	Call Clyde Pine regarding next weeks hearings documents (.3); read clerk's inquiry and Pine's reply (.3); call and write to Rogelio regarding	1.50	375.00

IME Properties, Ltd.

Page 4

			Hours	Amount
		document production (.4); meet with Rogelio to go over same (.5).		
7/22/2013	JMG	Draft Notice of Order Approving Attorney.	0.20	18.00
8/5/2013	JMG	Draft Notice of Order Approving Dan Foster.	0.20	18.00
8/12/2013	BK	Read Itzel's Property documents (.3); draft cover letter to Clyde Pine regarding same (.2); read Objection to cash collateral use (.6); visit with Rogelio to go over the points raised in the objection (1.3); draft trial exhibits list (.4); lengthy call to Mr. Pine to discuss mistaken assumptions made by GECU concerning Poli US Tire debts, assets, and current status (.4); plan trial questions (.2).	3.40	850.00
8/13/2013	BK	Review GECU exhibits (.5); update own exhibits book (.6); call C. Pine regarding same (.1); update cash collateral order (.7).	1.90	475.00
8/14/2013	BK	Prepare for and meet with Contreras to go over testimony for 341 meeting and final cash collateral hearing (2.3); review and add to trial questions (1.4).	3.70	925.00
8/12/2013	MC	Draft Second Amended Schedule B.	0.20	18.00
8/15/2013	BK	Go to meeting of creditors (1.6); prepare for tomorrow's hearings (.8); work on proposed order (.6).	3.00	750.00
8/16/2013	BK	Appear at Court for contested final hearing on cash collateral usage.	4.00	1,000.00
For professional services rendered			47.50	\$11,635.00

Additional charges:

6/25/2013	BK	Copies at .20 cents per page for letter to All Tenants, Emergency Motion to Use Cash Collateral, Motion to Continue Utility Services, Section 1116(1) Statement, Application to Employ Attorney, Notice	58.00
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IME Properties, Ltd.

Page 5

	<u>Amount</u>
of Hearing on Motion to Use Cash Collateral, and Notice of Hearing on Motion to Continue Utility Services.	
6/28/2013 BK Copies at .20 cents per page for signed Order on Motion to Continue Utility Services.	1.80
7/2/2013 BK Copies at .20 cents per page for Motion to Decrease Life Insurance Collateralization for Loan.	17.60
7/3/2013 BK Copies at .20 cents per page for letter to Dan Foster, Initial Debtor Interview materials, Motion to Limit Notices, and Amended Schedule B.	38.80
7/9/2013 BK Copies at .20 cents per page for Application to Employ Broker.	11.20
7/17/2013 BK Copies at .20 cents per page for Notice of Interim Order on Motion to Use Cash Collateral.	3.20
6/25/2013 BK Postage for sending letter to all tenants, Emergency Motion to Use Cash Collateral, Motion to Continue Utility Services, Application to Employ Attorney, Notice of Hearing on Motion to Use Cash Collateral, and Notice of Hearing on Motion to Continue Utility Services.	28.82
6/28/2013 BK Postage for sending signed Order on Motion to Continue Utility Services.	1.38
7/2/2013 BK Postage for sending Motion to Decrease Life Insurance Collateralization for Loan.	4.48
7/3/2013 BK Postage for sending letter to Dan Foster, Motion to Limit Notices, and Amended Schedule B.	17.06
7/9/2013 BK Postage for sending Application to Employ Broker.	6.44
7/17/2013 BK Postage for sending Notice of Interim Order on Motion to Use Cash Collateral.	1.84

IME Properties, Ltd.

Page 6

		<u>Amount</u>
7/3/2013 BK	To Federal Express for overnight mail.	48.97
7/22/2013 BK	Copies at .20 cents per page for Notice of Entry of Order Approving Employment of Attorney.	29.40
BK	Postage for sending Notice of Entry of Order Approving Employment of Attorney.	17.48
8/6/2013 BK	Copies at .20 cents per page for Notice of Order Approving Broker.	15.20
8/12/2013 BK	Copies at .20 cents per page for hand delivered letter to Clyde Pine.	6.00
8/13/2013 BK	Copies at .20 cents per page for Exhibits on Motion to Use Cash Collateral and Motion to Reduce Life Insurance Coverage.	126.20
8/14/2013 BK	Copies at .20 cents per page for Amended Schedule B.	1.60
 Total costs		<u>\$ 435.47</u>
For professional services rendered		\$12,070.47